

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE BANK OF AMERICA CORP.
SECURITIES, DERIVATIVE, AND
EMPLOYMENT RETIREMENT INCOME
SECURITY ACT (ERISA) LITIGATION

THIS DOCUMENT RELATES TO
The Consolidated Securities Class Action

Master File No. 09 MDL 2058 (PKC)
ECF CASE

**DECLARATION OF
SAMSON A. ENZER**

VOLUME III

Samson A. Enzer declares:

67. I am associated with the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP, counsel for defendants Bank of America Corporation and Banc of America Securities LLC (together, "BofA"). I submit this declaration in support of the accompanying Memorandum of Law in Opposition to Plaintiffs' Motion for Partial Summary Judgment.

68. Attached hereto as Exhibit 61 is a true and correct copy of excerpts from the deposition of Garrett Moritz in the above-referenced action, dated March 16, 2012.

69. Attached hereto as Exhibit 62 is a true and correct copy of excerpts from the deposition of Peter Hein in the above-referenced action, dated March 14, 2012.

70. Attached hereto as Exhibit 63 is a true and correct copy of excerpts from the deposition of Nicholas Demmo in the above-referenced action, dated March 5, 2012.

71. Attached hereto as Exhibit 64 is a true and correct copy of handwritten notes of Joe L. Price, dated December 17, 2008, as produced by defendants in the above-

referenced action and bearing Bates numbers BAC-ML-NYAG-502 00001114 through BAC-ML-NYAG-502 00001115.

72. Attached hereto as Exhibit 65 is a true and correct copy of email correspondence dated December 4, 2008 between Suresh Minakshisundaram, Neil Cotty, and Bob Qutub, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 70340551 through BAC-ML-NYAG 70340552.

73. Attached hereto as Exhibit 66 is a true and correct copy of email correspondence, dated December 5, 2008, from Neil Cotty to Tom Montag, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 01187638 through BAC-ML-NYAG 01187640.

74. Attached hereto as Exhibit 67 is a true and correct copy of email correspondence, dated January 13, 2009, from Bob Qutub to Neil Cotty, Joe Price, and Jeff Brown, as produced by defendants in the above-referenced action and bearing Bates number BAC-ML-NYAG 10005076.

75. Attached hereto as Exhibit 68 is a true and correct copy of email correspondence, dated November 28, 2008, from Christopher Hayward to Neil Cotty, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 00055787 through BAC-ML-NYAG 00055790.

76. Attached hereto as Exhibit 69 is a true and correct copy of email correspondence, dated December 4, 2008, from Tom Montag to John Thain, as produced by defendants in the above-referenced action and bearing Bates number BAC-ML-NYAG 10009424.

77. Attached hereto as Exhibit 70 is a true and correct copy of excerpts from the deposition of Kevin Warsh in the above-referenced action, dated March 15, 2012.

78. Attached hereto as Exhibit 71 is a true and correct copy of the Thomson Reuters “First Call” product webpage, *available at* http://thomsonreuters.com/products_services/financial/financial_products/a-z/first_call/.

79. Attached hereto as Exhibit 72 is a true and correct copy of a declaration from Jennifer Bennett in the above-referenced action, dated June 28, 2012.

80. Attached hereto as Exhibit 73 is a true and correct copy of excerpts of the deposition of Charles Gifford in *In re Bank of America Corp. Stockholder Deriv. Litig.*, C.A. No. 4307-CS (Del. Ch.), dated December 9, 2011, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 80114447 through BAC-ML-NYAG 80114577.

81. Attached hereto as Exhibit 74 is a true and correct copy of excerpts of the deposition of Thomas J. May in *In re Bank of America Corp. Stockholder Deriv. Litig.*, C.A. No. 4307-CS (Del. Ch.), dated December 15, 2011, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 80114578 through BAC-ML-NYAG 80114811.

82. Attached hereto as Exhibit 75 is a true and correct copy of excerpts of the deposition of Kenneth D. Lewis in *SEC v. Bank of America*, 09 CV 6829 (JSR) (S.D.N.Y.), dated October 30, 2009, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-CL 00000874 through BAC-ML-CL 00001176.

83. Attached hereto as Exhibit 76 is a true and correct copy of excerpts of the deposition of Thomas M. Ryan in *In re Bank of America Corp. Stockholder Deriv. Litig.*, C.A.

No. 4307-CS (Del. Ch.), dated October 6, 2011, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 80113209 through BAC-ML-NYAG 80113486.

84. Attached hereto as Exhibit 77 is a true and correct copy of excerpts of the deposition of Monica Lozano in *In re Bank of America Corp. Stockholder Deriv. Litig.*, C.A. No. 4307-CS (Del. Ch.), dated July 7, 2011, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-CL 00657266 through BAC-ML-CL 00657430.

85. Attached hereto as Exhibit 78 is a true and correct copy of excerpts of the deposition of Thomas Graham in the above-referenced action, dated March 14, 2012.

86. Attached hereto as Exhibit 79 is a true and correct copy of BofA's Second Set of Interrogatories, dated January 27, 2012.

87. Attached hereto as Exhibit 80 is a true and correct copy of Plaintiffs' Answers and Objections to BofA's Second Set of Interrogatories, dated February 27, 2012.

88. Attached hereto as Exhibit 81 is a true and correct copy of excerpts of a document, "PVG Price Verification and Process, ML Banks Investment Portfolio, September 2008 Close," as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-CL 00105266 through BAC-ML-CL 00105281.

89. Attached hereto as Exhibit 82 is a true and correct copy of excerpts from a December 5, 2008 email from Curt Kendall and enclosed spreadsheet, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 70304741 through 70304849.

90. Attached hereto as Exhibit 83 is a true and correct copy of excerpts from December 8, 2008 email correspondence between Neil Cotty and John Thain and enclosed

slides, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 10016125 through BAC-ML-NYAG 10016139.

91. Attached hereto as Exhibit 84 is a true and correct copy of excerpts from a December 8, 2008 email from Craig Rosato and enclosed slides, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 70342427 through BAC-ML-NYAG 70342636.

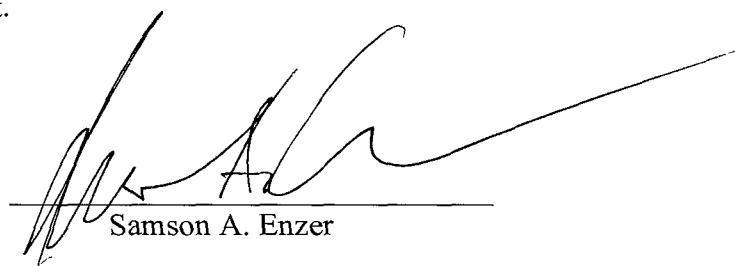
92. Attached hereto as Exhibit 85 is a true and correct copy of excerpts from a December 8, 2008 email from Steve Brown and enclosed slides, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 10006633 through BAC-ML-NYAG 10006701.

93. Attached hereto as Exhibit 86 is a true and correct copy of a December 9, 2008 email from Steve Brown and enclosed slide, as produced by defendants in the above-referenced action and bearing Bates numbers BAC-ML-NYAG 10006702 through BAC-ML-NYAG 10006703.

94. Attached hereto as Exhibit 87 is a true and correct copy of Plaintiffs' Supplemental Responses and Objections to BofA's Second Set of Interrogatories, dated May 14, 2012.

95. In accordance with 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
June 29, 2012



Samson A. Enzer